

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA, et	:	CASE NO.: C-1-02-107
al.,	:	
	:	
Plaintiffs,	:	JUDGE S. ARTHUR SPIEGEL
	:	MAGISTRATE HOGAN
v.	:	
	:	RESPONSE TO HOWARD
	:	REQUEST FOR REVIEW
BOARD OF HAMILTON COUNTY	:	
COMMISSIONERS, et al.	:	
	:	
Defendants.	:	

The City and County Defendants ("MSD") respond to Elaine Howard's Motion for Review (Doc #201) as follows:

1. The MSD investigated Ms. Howard's claim and denied her claim. Dotty Carman is the Water-in-Basement claims administrator.
2. Ms. Carman determined that the water in the basement was caused by problem Ms. Carman's house lateral and not in the public sewer. (Attached MDS Letter, Exhibit A)
3. MSD will repair or reconstruct the that portion of the house lateral within the street right of way when the lateral fails because of a broken or collapsed pipe pursuant to Section 1207 of MSD rules and regulations.
4. Ms. Howard owns the property serviced by the lateral and as such is responsible for the lateral's maintenance.

Accordingly, the MSD defendants request that the Court separately review the claimed damages, and that thereafter the Court affirm City's determination.

Respectfully submitted,

Patricia M. King (0061464)
Interim City Solicitor

/s/ Nicole L. Sanders
Nicole L. Sanders (0077186)
Assistant City Solicitor
Room 214, City Hall
801 Plum Street
Cincinnati, Ohio 45202
Phone (513) 352-5255
Fax (513) 352-1515
E-Mail: Nicole.sanders@cincinnati-ohio.gov.
Trial attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2008 a true and accurate copy of the foregoing Response was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system and copies will be mailed to those parties who are not served via the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Nicole L. Sanders
Nicole L. Sanders (0077186)
Assistant City Solicitor



**METROPOLITAN SEWER DISTRICT
OF GREATER CINCINNATI**

1600 Gest Street
Cincinnati, Ohio 45204
513-244-1300
www.msdc.org

James A. Parrott
Executive Director

June 25, 2008

Elaine Howard
7924 Cherrywood Court
Cincinnati, Ohio 45224

RE: Claim for Water in Basement incident at 7924 Cherrywood

Dear Ms Howard:

An investigation of your claim has determined that your Water in Basement incident was the result of a problem in your private house lateral and not a problem in the public sewer. MSD repaired that part of your lateral within the street; MSD is responsible for the repair of all house laterals within streets. However, because the entire house lateral is owned by the owner of the building served by the lateral and not MSD, MSD must reject your claim for damages.

If you disagree with the City's disposition of your claim, in accordance with an order in the Consent Decree case, Federal District Court case # C-1-02-107, you may file a Request for Review with the Federal Court in Cincinnati, Ohio. You should file your Request within 90 days with the Clerk's Office of the Federal Court located in the Potter Stewart U.S. Courthouse, Room 103, 100 East 5th Street, Cincinnati, Ohio 45202. You may call the court-appointed Ombudsman, the Legal Aid Society, at (513) 362-2801 for further information concerning your rights under the Consent Decree.

Alternatively, you may appeal the decision through standard legal process in the courts of Hamilton County in the Hamilton County Municipal Court or the Court of Common Pleas. Both of these courts are located at 1000 Main Street.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dorothy Carman', is written over a horizontal line.

Dorothy Carman
Assistant City Solicitor

Customer Service
513-352-4900

Emergency Service
513-352-4900

